

AMENDED IN ASSEMBLY MAY 23, 2007

AMENDED IN ASSEMBLY MAY 16, 2007

AMENDED IN ASSEMBLY MAY 1, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

## ASSEMBLY BILL

**No. 287**

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**Introduced by Assembly Member Nava**  
**(Coauthors: Assembly Members Dymally, Garcia, and Portantino)**  
(Coauthor: Senator Runner)

February 9, 2007

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An act to add and repeal Sections 17053.36 and 23636 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

### LEGISLATIVE COUNSEL'S DIGEST

AB 287, as amended, Nava. Personal income and corporation taxes: credits: freeze relief: wages.

The Personal Income Tax Law and Corporation Tax Law authorize various credits against the taxes imposed by those laws.

This bill would additionally authorize a tax credit for ~~each taxable year beginning on or after February 1, 2006, and before January 1, 2009,~~ to a qualified taxpayer, as defined, who is an agricultural employer, as defined, whose trade or business was reduced by over 50% in a county that had a state of emergency, as declared by the Governor, as a result of extreme low temperatures and freezing conditions that began on January 11, 2007, in an amount equal to 40% of the amount of wages paid, *on or after January 12, 2007, and before January 1, 2009*, to a qualified employee, as defined.

This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 17053.36 is added to the Revenue and  
2 Taxation Code, to read:

3 ~~17053.36. (a) For each taxable year beginning on or after~~  
4 ~~February 1, 2006, and before January 1, 2009,~~

5 *17053.36. (a) For wages paid to a qualified employee on or*  
6 *after January 12, 2007, and before January 1, 2009, there shall*  
7 *be allowed to a qualified taxpayer as a credit against the “net tax,”*  
8 *as defined by Section 17039, an amount equal to 40 percent of the*  
9 *amount of wages paid to each qualified employee.*

10 (b) (1) The maximum credit allowable *per taxable year* pursuant  
11 to this section shall not exceed a total of two thousand four hundred  
12 dollars ~~(\$2,400) during a taxable year by a qualified taxpayer at~~  
13 ~~the (\$2,400) per qualified employee at the quarterly rate set forth~~  
14 ~~in paragraph (2).~~

15 (2) One-quarter of the amount specified in paragraph (1) will  
16 ~~be allowable for each quarter in which the qualified taxpayer~~  
17 ~~employs the qualified employee, for at least one-half the quarter,~~  
18 ~~for each quarter beginning after March 31, 2007. be allowable for~~  
19 *each calendar quarter beginning on or after January 1, 2007, in*  
20 *which the qualified taxpayer employs the qualified employee for*  
21 *at least one-half of that calendar quarter.*

22 (c) For purposes of this section:

23 (1) “Qualified county” means a county that is included in the  
24 state of emergency, as declared by the Governor, as a result of  
25 extreme low temperatures and freezing conditions that began on  
26 January 11, 2007.

27 (2) “Qualified employee” means an agricultural employee, as  
28 defined in Section 1140.4 of the Labor Code, of a qualified  
29 taxpayer, who performed services of employment at a rate  
30 equivalent to at least thirty-five hours a week for the period  
31 beginning January 12, 2007, through March 31, 2007, and  
32 continuously thereafter, with the qualified taxpayer in a qualified  
33 county.

(3) (A) “Qualified taxpayer” means any agricultural employer, as defined in Section 1140.4 of the Labor Code, in a qualified county whose agricultural operations in that qualified county were reduced by more than 50 percent, as determined in subparagraph (B), on any day beginning on and after January 12, 2007, as a result of damage sustained in connection with the extreme low temperatures and freezing conditions that began on January 11, 2007, for which a state of emergency was declared by the Governor.

(B) The reduction in agricultural operations shall be the measure of the difference between profit or loss attributable to California agricultural operations reported on a taxpayer’s federal Schedule F for the taxable year that includes January 12, 2007, and the average reported profit or loss reported by the taxpayer on all federal Schedules F filed by the taxpayer for the preceding five taxable years, without regard to Section 17207.

(d) If the credit allowed by this section exceeds the “net tax,” the excess may be carried over to reduce the “net tax” in the following year, and in the succeeding eight years, if necessary, until the credit is exhausted.

(e) No other credit may be allowed under this part for any cost for which a credit is allowed by this section. Any deduction for wages paid to the qualified employee shall be reduced by the amount of the credit.

(f) This section shall remain in effect only until December 1, 2009, and as of that date is repealed.

SEC. 2. Section 23636 is added to the Revenue and Taxation Code, to read:

~~23636. (a) For each taxable year beginning on or after February 1, 2006, and before January 1, 2009, there shall~~

*23636. (a) For wages paid to a qualified employee on or after January 12, 2007, and before January 1, 2009, there shall be allowed to a qualified taxpayer as a credit against the “tax,” as defined by Section 23036, an amount equal to 40 percent of the amount of wages paid to each qualified employee.*

(b) (1) The maximum credit allowable *per taxable year* pursuant to this section shall not exceed a total of two thousand four hundred dollars ~~(\$2,400) during a taxable year by a qualified taxpayer at the (\$2,400) per qualified employee at the quarterly rate set forth~~ in paragraph (2).

1 (2) One-quarter of the amount specified in paragraph (1) will  
2 ~~be allowable for each quarter in which the qualified taxpayer~~  
3 ~~employs the qualified employee, for at least one-half the quarter,~~  
4 ~~for each quarter beginning after March 31, 2007.~~ *be allowable for*  
5 *each calendar quarter beginning on or after January 1, 2007, in*  
6 *which the qualified taxpayer employs the qualified employee for*  
7 *at least one-half of that calendar quarter.*

8 (c) For purposes of this section:

9 (1) “Qualified county” means a county that is included in the  
10 state of emergency, as declared by the Governor, as a result of  
11 extreme low temperatures and freezing conditions that began on  
12 January 11, 2007.

13 (2) “Qualified employee” means an agricultural employee, as  
14 defined in Section 1140.4 of the Labor Code, of a qualified  
15 taxpayer, who performed services of employment at a rate  
16 equivalent to at least thirty-five hours a week for the period  
17 beginning January 12, 2007, through March 31, 2007, and  
18 continuously thereafter, with the qualified taxpayer in a qualified  
19 county.

20 (3) (A) “Qualified taxpayer” means any agricultural employer,  
21 as defined in Section 1140.4 of the Labor Code, in a qualified  
22 county whose agricultural operations in that qualified county were  
23 reduced by more than 50 percent, as determined in subparagraph  
24 (B), on any day beginning on and after January 12, 2007, as a result  
25 of damage sustained in connection with the extreme low  
26 temperatures and freezing conditions that began on January 11,  
27 2007, for which a state of emergency was declared by the  
28 Governor.

29 (B) The reduction in agricultural operations shall be the measure  
30 of the difference between profit or loss attributable to California  
31 agricultural operations reported on a taxpayer’s federal Schedule  
32 F for the taxable year that includes January 12, 2007, and the  
33 average reported profit or loss reported by the taxpayer on all  
34 federal Schedules F filed by the taxpayer for the preceding five  
35 taxable years, without regard to Section 24347.5.

36 (d) If the credit allowed by this section exceeds the “tax,” the  
37 excess may be carried over to reduce the “tax” in the following  
38 year, and in the succeeding eight years, if necessary, until the credit  
39 is exhausted.

1 (e) No other credit may be allowed under this part for any cost  
2 for which a credit is allowed by this section. Any deduction for  
3 wages paid to the qualified employee shall be reduced by the  
4 amount of the credit.

5 (f) This section shall remain in effect only until December 1,  
6 2009, and as of that date is repealed.

7 SEC. 3. This act provides for a tax levy within the meaning of  
8 Article IV of the Constitution and shall go into immediate effect.

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